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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
08/913,811	09/24/97	SUGIHARA	H 356972020100

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HM32/0717

EXAMINER

SPIEGEL, C	ART UNIT	PAPER NUMBER
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1641

DATE MAILED 07/17/98

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

RESTRICTION/ELECTION OFFICE ACTION SUMMARY

- ☐ Responsive to communication(s) filed on _____
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire ONE month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 1-13 is/are pending in the application.
- ☐ Of the above, claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☐ Claim(s) _____ is/are rejected.
- ☒ Claim(s) 1-13 is/are objected to.
- _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- *Certified copies not received: _____

- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☐ Notice of Reference Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☒ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☒ Notice of Informal Patent Application, PTO-152

--SEE OFFICE ACTION ON THE FOLLOWING PAGES--

REST AVAILABLE COPY

Art Unit: 1641

RESTRICTION REQUIREMENT

Please Note: In an effort to enhance communication with our customers and reduce processing time, Group 1640 is running a Fax Response Pilot for Written Restriction Requirements. A dedicated Fax machine is in place to receive your responses. The Fax number is 703-305-3704. A Fax cover sheet is attached to this Office action for your convenience. We encourage your participation in this Pilot program. If you have any questions or suggestions please contact Donald E. Adams, Ph.D., Supervisory Patent Examiner at Donald.Adams@uspto.gov or 703-308-0570. Thank you in advance for allowing use to enhance our customer service. Please limit the use of this dedicated Fax number to responses to Written Restrictions.

Since this application has been filed under 35 U.S.C. 371, "Lack of Unity" practice is being followed. This application contains the following inventions or groups of inventions which are not so linked as to form a single inventive concept. Restriction to one of the following inventions is required:

- I. Claims 1-4, drawn to methods for evaluating the effect of environmental factors on physical and biochemical properties of biological tissues or cells, classified in class 436, subclass 63.
- II. Claims 5-11, drawn to a device comprising a cell culture system and observation system, including a microelectrode array, classified in classes 435 and 422, subclasses 34 and 82.01, respectively.
- III. Claims 12 and 13, drawn to a method and device for measuring the effect(s) a drug/medicine has on tissue or cells, said device comprising an image detection

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system and an electrical measurement system, classified in classes 422 and 436, subclasses 82.01 and 63, respectively.

Each of Group I, II and III each recite an independent and distinct special feature not required by the remaining groups. Group I can be performed manually and does not require the cell culture system and observation system of Group II; and, neither Group I nor Group II requires the image detection and electrical measurement system of Group III. Each group has a separate status in the art as shown by their different classifications; requires divergent and different search areas; and, raises issues of device functional compatibility with biological tissue and culture systems, optical integration, microfabrication of arrays, etc. which are not common to all groups. Therefore, it would require an undue burden to search and examine all three groups in the absence of a common special technical feature.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

CLOSING

Art Unit: 1641

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carol A. Spiegel whose telephone number is (703) 308-3096.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Housel, can be reached on (703) 308-4027. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

Carol A. Spiegel
July 10, 1998

Carol A. Spiegel
CAROL A. SPIEGEL
PRIMARY EXAMINER
GROUP 1800/600



RESTRICTION ELECTION FACSIMILE TRANSMISSION

DATE:

FROM/ATTORNEY:

FIRM:

PAGES, INCLUDING COVERSHEET:

PHONE NUMBER:

TO EXAMINER: *CAROL A. SPIEGEL*

ART UNIT: *1641*

SERIAL NUMBER: *08/913, 811*

FAX/TELECOPIER NUMBER: (703) 305-3704

**PLEASE NOTE: THIS FACSIMILE NUMBER IS TO BE USED ONLY
FOR RESPONSES TO RESTRICTIONS.**

COMMENTS: _____

IF YOU HAVE NOT RECEIVED ALL THE PAGES OF THIS TRANSMISSION, PLEASE CONTACT THE ATTORNEY AT THE TELEPHONE NUMBER LISTED ABOVE.

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